



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

March 5, 1998

Mr. J. Robert Giddings  
The University of Texas System  
Office of General Counsel  
201 West Seventh Street  
Austin, Texas 78701-2981

OR98-0607

Dear Mr. Giddings:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 113607.

The University of Texas Medical Branch at Galveston (the "university") received a request for various information concerning Mr. O'Neal Browning, who, we are informed, was an inmate at the Skyview Unit of the Texas Department of Criminal Justice before his death on April 28, 1997. We are also informed that Mr. Browning received medical care from university employees. The requestor, a representative of Advocacy, Inc., requests the information pursuant to the Open Records Act as well as federal law, specifically, the Protection and Advocacy for Mentally Ill Individuals Act (PAMIIA) of 1984. *See* 42 U.S.C. §§ 10801-10807. You ask whether the university must withhold from the requestor Mr. Browning's medical records based on sections 552.101 and 552.111 of the Government Code in conjunction with various state laws and rules, V.T.C.S. article 4495b, section 5.08; Health and Safety Code sections 576.005 and 773.091; and Texas Rules of Civil Evidence 501, 502, 509, 510.<sup>1</sup>

Section 552.101 of the Government Code excepts from required public disclosure information made confidential by law, including information made confidential by statute. You raise several state statutes that govern the release of medical records in certain circumstances. However, we believe that, in this instance, federal law governs the release

---

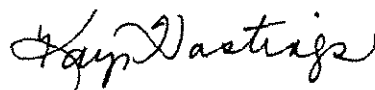
<sup>1</sup>The university has withdrawn its original claims that portions of the requested information are excepted from public disclosure under section 552.102, 552.103, 552.108 and 552.117 of the Government Code.

of the requested medical records to this requestor. The federal law concerning the release of the requested information to this requestor preempts the state law that makes confidential, or otherwise restricts dissemination of, certain medical records. *See English v. General Elec. Co.*, 110 S.Ct. 2270, 2275 (1990).

PAMIIA requires that states establish a protection and advocacy system which has the authority to investigate incidents of abuse and neglect of individuals who suffer a mental illness. *See* 42 U.S.C. § 10805; *see also id.* §§ 10802 (defining "individual with mental illness"), 10801 (containing Congressional findings and statement of purpose of PAMIIA). PAMIIA grants such a system access to all records concerning individuals who suffer mental illness in certain circumstances. *See id.* § 10805; *see also* 42 U.S.C. § 6042 (concerning system to protect and advocate rights of individuals with developmental disabilities). You state that you have asked the requestor to confirm that it is a qualified system established pursuant to PAMIIA and that it is entitled to the requested information pursuant to PAMIIA. *See id.* §§ 10802(2) (defining "eligible system"), 10803, 10804 (use of allotments), 10805 (system requirements). Assuming the requestor is a qualified system established pursuant to PAMIIA, we believe the university must release the requested medical records in accordance with PAMIIA. *See id.* § 10805(4).

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Hastings  
Assistant Attorney General  
Open Records Division

KHH/rho

Ref.: ID# 113607

Enclosures: Submitted documents

cc: Mr. David W. Lynch  
Regional Attorney  
Advocacy, Inc.  
414 East Pillar  
Nacogdoches, Texas 75963  
(w/o enclosures)